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ABSTRACT

This paper addresses the issues concerning the moral and ethical picture of responsibility and control of relicensure in the professions. The author examines the historical framework of professionalism, outlines the philosphical, legal, and ethical issues, and stresses the need for accountability and continuing education. While the professional associations should set the standards for continuing education, it is recommended that the universities be responsible for planning and developing continuing education programs. The author advocates a structural arrangement within the institution whereby responsibility is shared by the professional school and the continuing education/extension division. Finally, the paper discusses the advantages of this dual-responsibility approach in continuing education of the professions. (SJL)

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CONTINUING EDUCATION OF THE PROFESSIONS

ISSUES, ETHICS AND CONFLICTS

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July 8 - 1975
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A recent issue of a California newspaper, the Sacramento Bee, reported that five state bills, designed to give the California State Boards that regulate professions and vocations more of a consumer-oriented look, were killed by the legislature, all on the same day.

Why the bills were killed, and what was the source of the pressures that killed them, are interesting matters for speculation. The crucial point however is that the five bills were introduced -- and that although they were written off, others like them will follow in unremitting sequence until our elected representatives translate into legislation the growing demand of the people with regard to the professions. Briefly stated, this is the demand that the American professional world reassess its path of increasing self-serving self-interest, and be more concerned with the interests of those who finally underwrite the services the professions provide.

The developing conflict between the professions and the public is of profound concern to colleges and universities. This is especially true with regard to the conflicting viewpoints of the professions and the public on the make-up and status of the licensing and other regulatory boards. Relicensure has emerged as one of today's key issues. And the role of institutions of higher learning in the relicensure process is one of the key questions in the many-faceted conflict.

Much material has already been written and spoken on relicensure as related to continuing education in the professions. Many studies have been made regarding the number of hours required for relicensure in various fields in various locations. Others review the existence, or lack, of laws and regulatory agencies from state to state -- or the advent of implementation of the continuing education unit. This whole situation is very much in flux, and I don't propose to deal in this paper with any actual present state of affairs. What I am concerned with here, rather, is something much broader. That is, the whole moral, ethical picture of responsibility and control. This is something that must be resolved while decision-making is still in the early stages and while we in higher education still have the opportunity to influence the decisions before they are made.

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Who has the right to control the licensure and/or relicensure of our health science practitioners, our lawyers, our civil and construction engineers and other professionals who hold the lives and fates of the American people in their hands? Who has the responsibility for setting the standards the professions must live up to? Who will ultimately control the content of laws regulating continuing education requirements for relicensure? Who will watch over the delivery of professional services to the public? And evaluate performance in accordance with the established standards? Who will judge the outcome for the people -- the end results? Can we safely leave these functions solely in the hands of the professional and the professional association? During most of the recent past -- in fact, until just the last few years -- there has been a propensity in our society to operate as if some unwritten law delegates all authority to professionals. But new voices are rising now. Each is calling for a role for its own constituency -- elected officials, consumer protective associations, continuing education divisions, to name only a few.

While today's concern and involvement of non-professionals in professional affairs is the most widespread in history, it is not a new condition. Nor is the effort of the professions to hold a tight rein in their own domain. Nor is the interplay between the professions and institutions of higher learning. The ebb and flow of these relationships over the years is traced in fascinating fashion in a paper by Samual Haber, Professor of History at the University of California, Berkeley, titled The Professions and Higher Education in America: A Historical View. Opening with the note that "Professions are a thing of the past as well as of this day and age," Professor Haber points out that "The term profession in America has usually implied intellectual work -- and such work often means a high social standing that was supported by inveterate intellectual and class distinctions." Although the American professions as we know them today took shape in the 1880's, Dr. Haber's work reflects on an earlier time in what he calls the "raint glow of a 'golden age' of the professions," dating from the period when the American colonies adopted the professional traditions of England. There were but three learned professions at that time: medicine, law and the ministry. They were regarded as "occupations of gentlemen." And of special import to educators was the notion that "one of the essential marks of an eigteenth-century gentleman was the liberal arts education." The technical training for professions, according to Dr. Haber, was usually considered less important, though "not demeaning if it followed a classical education." Even then, however, the role of education was dominated by that of the professional societies. As Professor Haber states, these societies "offered the means of corporate action, which, in varying degrees, included licensing, self-government and monopoly powers.

From the beginning, in America, there has always been a certain assumption that "men of lower standing" could move forward into the professional ranks. They might accomplish this via the medical, legal and religious seminaries, but only provided the classical education was mastered as a prerequisite, permitting them in the words of the day to "soar above the sordid views of vulgar minds." Hence, professionalism in America was linked with the "art of rising in life" -- with upward mobility. Concurrently professional organization spread, followed by the enactment of professional licensing laws to raise both the standards and the income of practitioners, and to further restrict entry into the professions. The handsome earnings of professionals were explained by Adam Smith on the basis of the "great

trust that must be placed in them" because "such confidence could not safely be reposed in people of a very mean or low condition." The trust, however, implied not simply reliability, but a relationship of authority and dependence. Of interest is the fact that even to this day, while business and industry refer to those they serve as "customers", the professional designates those who come to him as "clients".

What I am leading up to here, and what is of immense significance to educators today, is what happened to the professions following the period of the "golden age". In the era from 1830 to 1880 a widespread and powerful egalitarian impulse latent in much of American culture broke out into the open and swept before it many of the landmarks of a society that had previously been run by the so-called "finished gentlemen". According to Professor Haber's historical account, a major factor of the "economic impetus for this egalitarianism was the rapid commercial and industrial growth of the country . . . The spirit of expansion and opportunity dominated the era and clashed with almost all forms of exclusiveness, restriction and monopoly . . . To many reformers government seemed too readily used by the established classes to protect their privileges and corner the benefits of society". Two forces -- one for a leveling of the social order and the other for removing restraints to opportunity for all -- made the traditional professions and their rigid licensing laws appear as conspiracies against the laity. Not only the technical training of the professions was now belittled, but classical culture as well. Indeed, in Dr. Haber's words, there was a "widespread arraignment of classical education as both exclusive and useless". Almost everything the professional needed to know, it was said, could be learned "by any ambitious fellow with a natural bent for the subject."

During the course of these 50 years, 10 states repealed their laws giving medical societies the right to examine candidates and grant licenses. Deprived of their most important powers, most medical societies declined rapidly and many perished. In the field of law, bar associations were deprived of their powers over admission to practice. The extent to which the movement pushed its tentacles is seen in the inclusion in the Indiana constitution of the statement that "every person of good moral character who is a voter is entitled to practice law in any of the courts of the state."

The disestablishment and humbling of the professions in turn added to the difficulties of the liberal arts colleges. The number of college students decreased, both actually and in proportion to the population. Professor Haber's account of this period sounds what might be seen as a warning knell for our present times. He writes: "In response to direct attacks upon the classical curriculum, the colleges were unbending, but only at the cost of increasing fossilization and isolation from the broader culture of the country." Concurrently there was a rapid growth of proprietary schools established as profit-making enterprises for the awarding of professional degrees, with easy entry and with graduation a matter of course.

Then, in the 1880's, out of these ashes, the professional phoenix arose once more.

Dr. Haber's account tells of the rebirth of a new spirit among the old professions, parallelled by proliferation of new occupations claiming status in the professional world, all of which opened an era that has continued on into our contemporary society. Its roots are many and pervasive. Among them are the acceleration of knowledge, forcing us into the age of specialization; the vast discoveries and esoteric nature of science, engendering new support for professional authority; the application of science to technology; the relationship of various kinds of expansion and restriction. This expansion and restriction process is intricate and many-sided. It is seen, for example, in the oil and other industries, and in numerous aspects of society such as urbanization, immigration, labor organization, civil service, race relations. With these events there also came significant shifts of social thought, summed up in the words of Woodrow Wilson: that "A doctrine must be found which gives wide freedom to the individual for his self-development and yet guards that freedom against the competition that kills, and reduces the antagonism between self-development and social development to a minimum." According to Dr. Haber, the leaders of the professions saw in such a doctrine a defense for new professional licensing laws. A literal rush of professional-license legislation ensued, with broad governmental support for the professionals' control of their callings.

In raising standards and restricting competition in the professions, it cannot be denied that one significant consideration lay in the economic effects -- among them the handsome income derived by many professionals. However, I do not want to indicate that the raising of standards was only self-seeking. In fact, as Professor Haber noted in his paper, "it was the ingredient of ardent loftiness that gave (the professionals) much of their power."

What I do contend is that in our own times, the self-seeking, self-interest aspects of professional regulations and behavior are reaching unacceptable bounds. In this, the professions admittedly are not unlike the whole range of occupations. But we must keep in mind that there is a special quality in professionalism, a special responsibility, a special need for their "ardent loftiness." For the simple fact is that in America today, the professions are among the principal controllers of our lives.

There is no major decision on any of the great domestic issues of the day that can be made without professional involvement. Our economy, our politics, our societal concerns, our health and welfare -- all, all are dependent to one degree or another upon the professions.

The professions, like other occupations, are now under attach from many sides. Among the attackers are, for example, the Ralph Nader group, Friends of the Earth, Common Cause and other similar organizations. To many such reformers, government once again seems "too readily used by the established classes to protect their privileges and corner the benefits of society."

The cry of the people is clear: "We pay the high price of your service -- yet we have no control over what you give."

And the conflict is clear: Who shall be the controlling force? Those who pay the price and take the life-affecting risk of the outcome? Or those who provide the service (and must therefore amass the knowledge and the experience), but whose risk is primarily only economic?

This is the major issue. Who shall control our future? By that I refer not to the future of the professions alone. Rather, because of the extent to which the professions are involved in our lives, the issue is, who shall control the future for us all?

* * * * *

To facilitate a study of what is at stake -- the issues on the one hand, the various concerned constituencies who seek to control the issues on the other -- I have developed a grid-construct.(Attachment I).

On the left side of the grid, reading from top to bottom, are lines listing a number of issues in professionalism and professional service. Across the top, reading from left to right, are columns showing constituencies involved, or who seek to be involved. In both categories, some of the subdivisions are unavoidably overlapping. And in either category -- issues or constituencies -- the concerned educator will probably think of more items to add.

The issues listed are the following:

1 -- Philosophy of the profession

2 -- Ethics of the profession

3 -- The law regarding the profession, including the right to practice

4 -- Delivery of service to the public

5 -- Accountability:

(a) for service, including supervision of delivery
(b) for evaluation of performance and of results

6 -- And finally, continuing education for the profession

As the concerned constituencies the following are suggested:

A -- The individual professional

B -- The professional association(s)

C -- The government:

(1) elected officials, legislative

(2) Elected officials, executive

(3) appointed boards, commissions, etc.

D -- The public, individually or banded together in groups

E -- The professional school

F -- Continuing education divisions

The questions to be raised concern which of these constituencies A through F shall have authority and control over which of the issues 1 through 6. As mentioned earlier, during most of history and up until very recently in America, the professionals and professional associations have been accorded some kind of "divine right" to control everything to do with their world. Presumably, if they had fully lived up to the responsibilities inherent in such total control, there would be no questions to ask -- and no pressure for change. But there is pressure -- and the questions are being raised. Questions about how self-policing, self-regulatory associations can ever be wholly concerned with the interests of those for whose lives and welfare they are responsible, rather than primarily with their own self-interest. Questions whether commissions and boards appointed to protect the interests of the consumer can be truly objective, if the overwhelming majority of their members are also members of the profession they regulate. For example, also, in some cases virtually the entire content of the standards established by the commission is based on input from the associations that then have to adhere to these standards. Another question might be, who shall decide where to draw the line in the licensing and relicensing authority of the boards and commissions. On the one hand there is the danger of licensing persons unqualified to practice -- and on the other, the danger of restricting practice so tightly that there are not enough licensed practitioners to adequately serve the demand. In the field of continuing education, there is the question of who shall be responsible for its presentation. Shall the professional associations, who set the standards and provide the major membership of the licensing boards, also control the offering of continuing education programs designed to validate relicensure?

Clearly, in the complex of these questions, there lies unlimited opportunity for integrity and responsibility and trust-worthiness. But there also lies the opportunity for the unscrupulous few to restrict and discriminate, to corrupt the use of education as a basis for relicensure, and to turn to financial gain the processes initiated for protection of the people. The monumental moral issue, in short, is "conflict of interest." The professional and the professional associations surely have the right to control their own destinies. But wherever these destinies merge with public policies, the law, licensing boards, or continuing education -- then, unless the control is shared with the other concerned constituencies, the possibility of nonprofessional, immoral and corrupt practice cannot help but exist.

Referring again to our grid, I want to concentrate now on a single profession and work through the grid construct to question which of the constituencies A through F shall have full or partial control over each of the professional issues 1 through 6. I have chosen medicine to illustrate the study procedure that may be used.

Issue 1 -- The philosophy of medicine.

Who shall have responsibility for setting forth the philosophy of medicine? -- its mission, its goals, its objectives? I would suggest that this responsibility lies primarily in the in the self-regulating area, that is, with the individual professional and the professional association. The public should be assigned a consultant role, its voice to be heard -- but essentially the mission is a personal commitment on the part of the individual physician.

Issue 2 -- Ethics of the medical profession.

Ethics involve the setting of standards with respect to the character, attitudes and behavior of practioners in relationship to themselves, to their peers, to other professions and above all, to the people the profession serves. As with the philosophy of medicine, primary responsibility for determination of ethics lies with the individual physician and the professional association, with the entire membership contributing to decisions.

Issue 3 -- The law regarding the profession, including the right to practice.

Who shall set the standards, in education, in talent, in experience, in adherence to the ethics of the profession, which form the basis for validating the right to practice? The final responsibility for legislation lies of course with governmental agencies -- federal and state legislatures and the approving executive authority. The ultimate influence on what the policy-makers write into the laws -- that is, the setting of standards in education, in competency, in experience and in talent, on which these laws shall be based -- must come from the profession itself through its professional associations, based on ethically motivated concepts of self-regulation.

I believe, however, that the institutions of higher learning must play a statesmanlike role in assisting in the development of the highest standards in the law when it is written. It is from these institutions that research knowledge largely emanates. They are the storehouses of knowledge as well as the creators and disseminators of the newest in research. Continuing education -- an integral component of relicensure -- is inseparably united with research knowledge. The universities should therefore take leadership in developing a team approach to the way the law is written, to assure essential academic input, with a variety of contributors included in governance and delivery: the professional associations; legitimate continuing education institutions; and representatives of the public.

Specifics on the university's involvement in actual continuing education programs and the interface of these with relicensure laws are discussed later in this paper under the heading "Continuing Education in the Professions."

Issue 4 -- Delivery of service to the public.

Actual medical service to the public is of course the role of the individual practitioner, with assistance provided as needed by fellow members of the professional associations. In conjunction with them, there are usually involved the myriad affiliated services -- nursing, hospitals, public and allied health services and yes, continuing education divisions. For many important aspects of the physician's outreach to the patient in the dissemination of knowledge can be best accomplished by extension-type programs.

Issue 5 -- Accountability.

First, there is accountability for service, including supervision of delivery.
Traditionally this has been entirely the role of the individual practitioner and/or the professional association, in cooperation with hospitals and other attendant services, in a self-policing capacity ringed by closed walls. It is now becoming increasingly apparent that government is being called upon by the people it represents to play a strong role in control and supervision. For in this territory lies one of the prime chances for the kind of professional cover-up -- the tight little island of each-other-protection -- that has stirred so much concern among the people in recent years.

Second, there is accountability for evaluation of performance and of results.
This has also traditionally been the role of the individual practitioner and/or professional association. In recent years, however, considerable complaints have been raised that too little follow-up evaluation is undertaken. Even more importantly, the physician's interests and the hospital's procedural system have too often formed the basis for the modus operandi -- whereas actually the basis should be the end result in the welfare of the patient and the patient's family. Here again pressure from the public has developed for governmental action. There have even been pressures for such action from individual physicians and groups of physicians. They cite, for example, instances where they have been unable to effectively remove from practice a drunken physician -- because the local state board refuses to revoke the offender's license in the absence of specific reference in state regulations to the matter of problem drinking!

In this area of accountability, concrete action has been taken by the federal government, in the form of the Professional Standards Review Organizations, established to carry out medical care audit on a nationwide scale. The medical profession has been directed to establish such PSRO's in all major areas of medical service -- with the further proviso that unless the directive is effectively carried out, the government will move in.

I would like to contribute my own view, that while I do not deny the importance of professional knowledge in the evaluation process -- nevertheless, I believe the books must be opened to the public. Only in this way can those most deeply affected -- the

doctor's patients -- the people -- be able and free to assess the outcome for themselves and their families. I would maintain that in the area of accountability in the medical profession, multi-control should be required, via the profession, the government and the public, through whatever agencies it chooses to serve as its representatives. If public representation is to be in the form of boards and commissions, then membership on the boards must represent these three concerned constitutencies. The question of who controls the boards, and to whom they are responsible, must be clearly established by law.

Finally, I come to that area where we ourselves are most critically involved, that is:

Issue 6 -- Continuing education of the professions.

Here, traditionally, it is the universities that have had major responsibility. Continuing education is, of course, a matter of relatively recent concern. But in higher education of the professions in general, the universities were in the early days the only purveyors of professional learning. Later, though other technical professional schools entered the field, even these were gradually incorporated into the university structure. When the knowledge explosions of this century changed the entire educational scene, continuing education became a major force in professional life. At first, again, it was almost entirely a function of the universities. However, we are now challenged from all sides. Not only is any idea of exclusivity long gone. More -- some professions even question whether the universities should continue to have any large role at all. In the medical field, we see expanding numbers of programs offered by professional associations, by small groups of individual practitioners, by hospitals. Even within the universities there is considerable question as to where continuing education should emanate -- from the professional schools themselves or from their affiliated continuing education divisions.

It is my contention that while the professional associations should be concerned with setting the standards for continuing education, the universities must be the primary implementing agency. We are in the business of education. We are chartered in this field. We are the greatest single source of new knowledge in medicine as in all professions -- and by that fact, are similarly the greatest single knowledge resource.

What is so in medicine? What is valid in medicine? What is important in medicine? What is new in medicine? At the forefront of knowledge in answer to all these questions stand the great centers for the health sciences affiliated with our universities -- and the continuing education divisions that open the talent, research and resources of the universities to the adult communities beyond.

Having designated the university as the prime mover, where then within the university do we establish the seat of authority for the initiation, planning, development and presentation of continuing education programs? There are three potential ways to go:

1 -- to vest responsibility entirely within the professional school;

2 -- to vest responsibility entirely within the university extension or continuing education unit;

3 -- to work out a structural arrangement within the institution whereby responsibility is shared by the professional school and the continuing education/ extension division.

The first of these approaches I see as too self-limiting -- too tied to the world of research and the sometimes restricted academic viewpoint of the faculty of the professional school. For example, this approach does not provide a ready mechanism for interdisciplinary, multidisciplinary programming or for the broader perspective of interests outside the professional arena. Further, it tends to inadequately reflect the continuing education needs of the professional student as distinguished from the graduate student needs to which faculty direct their particular attention.

The second approach, on the other hand, exhibits the glaring failure of inadequate involvement of the research faculty, without which there cannot be rapid conversion of forefront knowledge into applied practice, with resultant benefits for the public.

The third approach, which obviously has my advocacy, offers the clear advantage of maximizing the strength of both units, at the same time emphasizing the role of the university as distinct and divorced from any self-interest positions outside its parameters.

Still using the example of medicine, this third approach would direct into continuing education programming all the wealth of the research and applied knowledge bank that inheres in the combination of professional school faculties and university-affiliated centers for the health sciences. But beyond this, it would draw on the extensive experience of the continuing education division in the diverse methodologies of delivery of professional education, which differ broadly from the type of standard undergraduate and graduate programs of study of the researcher-teacher. We in continuing education have had the opportunity to build expertise in the intensive conference, the residential seminar, the forum or panel discussion type of approach, the videotape cassette and other media formats of instruction from closed circuit programs for individual hospitals and staffs, to broadcasts into isolated regions via the ATS-F domestic satellite, providing two-way intercommunication components.

Further, because of the heavy public service responsibilities of continuing education divisions, we have established close working relationships with governmental and voluntary agencies and with business and industry, as well as with the individual consumer. In the initiation, planning and presentation of programs, we have effected a team appraoch to defining standards, defining the law,

defining accountability factors, in addition to providing background and analysis in continuing education for the professions themselves.

Finally, through the dual-responsibility approach within the university, there is available an all-essential ingredient not familiar to any single professional school. That is, the multi-professional viewpoint regarding the great issues of the day. I said earlier that all decisions on major national issues now involve input from professionals. But beyond that, most issues involve not just one but two or more professions. No longer does medicine operate on a narrow single-discipline line. Early overlap with the biological and physical sciences has expanded into broader territory -- to engineering; management; the social sciences; environmental concerns; education; even to the arts, as in music or dance therapy. The university, in its centralized continuing education division, concentrates a single source of all pertinent knowledge.

We might ask: Aren't we seeing something of a return to the "golden age" of the professions, when the role of the professional implied the classical education -- the "finished gentleman?" Once again, isn't it incumbent on physicians -- on all professionals -- to expand their continuing education beyond the limits of their own professions? Not just because knowledge of their work requires it, or because it will make them those "finished gentlemen" in the classic sense. Rather, because it will bring them a deeper sense of humanity -- and a truer meaning in service to their patients.

Where else but in the total university, through its continuing education division, will they find the unique breadth of talent to build that kind of program?

Returning now to the role of continuing education as related to relicensure laws, the conflict between programming by professional associations or programming by colleges and universities here reaches its peak levels.

Before decisions are finally arrived at throughout the country, it is important to determine what is a good relicensure law and what is a bad one in the context of whose input controls the policy-makers who write it. The government, federal and state, has the responsibility for protecting the public interest above all else, and in that interest for assuring that practitioners in a field so vital to the public welfare as medicine be fully qualified, available in sufficient number, and required to stay abreast of the highest standards and latest advances in the field.

At present, some professional associations are moving aggressively to develop their own continuing education programs. This is a healthy thing, because through such programs association members profit from the experience of their fellows. But when such programs are used as evidence provided to state legislatures on why the associations can operate on the premise of sole responsibility for continuing education, the potential for conflict of interest sanctioned by the law becomes all too clear.

While I do not know of any law in our own state of California that relegates responsibility only to the professional association,

there is much evidence of professional interest -- and pressure -- to establish an open-ended law. By that I mean a law providing that continuing education work may be taken by professionals either from professional associations or from colleges and universities, but without any assurance that programs in each category will be included. We have however in this state at least one example of the kind of relicensure law that I believe should become the model nationwide. That is, our California relicensure law for administrators of health care facilities, which requires that a significant portion of continuing education for relicensure be taken through an accredited college or university. The danger in the open-ended law is that the professional could go through life taking only courses offered by the association and thus never be exposed to the programs incorporating the highest-and-best in the realm of pure research. It is in this area -- the unique balance between conceptual learning and experiential learning -- where university programs developed jointly by the professional school, the health science center and the continuing education division can and must be a mandatory element in relicensure laws. Unless we publicly advocate this position, it is entirely possible that through open-ended laws-to-come, the professional associations may totally control continuing education.

* * * * *

In conclusion, I find of much interest the fact that a bill soon to be reintroduced into the national legislature proposes the establishment of a National Foundation for the Professions. Its goal is to provide federal funding and support for this important element of American society, equivalent to the kind of support already available to the arts, humanities, and sciences.

If the bill is passed, among its provisions will be funding for continuing education of the professions; for the development of multi-professional approaches to problem-solving in the great national issues; and for programs to promote public understanding of that concept. While there can be no single law, or single control authority, or even single pattern of approach, for the multitude of professions in our country -- it is heartening indeed to see the building interest in government as well as among the people for more of a voice in this vital segment of our lives.

As the communication lines open up, the interest explodes and the decisions are to be made. I would urge all national organization representing higher education to take a stand on the need to assure the role of the university -- and especially the continuing education divisions of the universities -- in standard setting, planning, development, presentation and evaluation of results, for all aspects of programs leading to relicensure in the professions.

# # # # #

RELICENSURE OF THE PROFESSIONAL:
ISSUES AND CONCERNED CONSTITUENCIES

	CONCERNED CONSTITUENCIES:					
	A) Indiv. Prof'l	B) Prof'l Assoc.	C) Government: Exec/Legis/Board	D) The Public	E) Prof'l Schls.	F) Con.Ed. Divis.
ISSUES:						
1) Philosophy of the Profession						
2) Ethics of the Profession						
3) Law, including Right to Practice						
4) Delivery of Service to Public						
5) Accountability: -for service, supervision of deliv. -for eval.,performance/results						
6) Continuing Education of Professions						

Attachment I